

**CITY OF MERCED**  
**Planning Commission**

**Resolution #4081**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of December 8, 2021, considered **Density Bonus #21-01**, initiated by UP Holdings, LLC, on behalf of Stan Shore Trust, property owner. This application involves a request to consider Density Bonus #21-01 which permits an increase in density and provides for concessions to development standards to allow the construction of 65 affordable multi-family units, a manager's unit, and a community/office area within a three-story building on a 1.54-acre parcel, generally located on the west side of Park Avenue, between Olive Avenue and Alexander Avenue. The site has a General Plan Designation of High-Medium Density (HMD) Residential and a Zoning designation of Planned Development (P-D) #4.; Assessor's Parcel No. 007-350-018.; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings/Considerations A through E of Staff Report #21-956 (Exhibit A); and,

**NOW THEREFORE**, after reviewing the City's Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of Environmental Review #21-43 (Categorical Exemption) and recommends approval of Density Bonus #21-01, subject to the Findings set forth in Exhibit A, attached hereto and incorporated herein by the reference.

Upon motion by Commissioner DYLINA, seconded by Commissioner GREGGAINS, and carried by the following vote:

**AYES:** Commissioners Camper, DeAnda, Delgadillo, Dylina, Greggains, White, and Chairperson Harris

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

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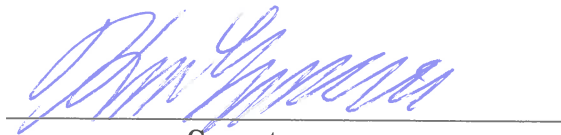
December 8, 2021

Adopted this 8<sup>th</sup> day of December 2021



\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



\_\_\_\_\_  
Secretary

Exhibits:

Exhibit A –Findings/Considerations

**Findings and Considerations  
 Planning Commission Resolution #4081  
 Density Bonus #21-01**

**FINDINGS/CONSIDERATIONS:**

**State Density Bonus Law**

- A) State Density Bonus Law (SDBL) states that a development which meets the requirements of the SDBL is entitled to receive the density bonus to increase the density of a project by right. This means that no discretionary review is required to allow an increase in the density of a project.

The City is required to grant the concession or incentive proposed by the developer unless it finds one of the following:

- That the proposed concession or incentive does not result in identifiable and actual cost reductions: or,
- Would cause a public health or safety project: or,
- Would cause an environmental problem; or,
- Would harm historical property; or,
- Would be contrary to law.

The City has the burden of proof in the event it declines to grant a requested incentive or concession. Financial incentives, fee waivers, and reductions in dedication requirements may be, but are not required to be, granted by the City.

The number of required incentives or concessions is based on the percentage of affordable units in the project as shown in the table below:

<b>No. of Incentives / Concessions</b>	<b>Very Low- Income Percentage</b>	<b>Low-Income Percentage</b>	<b>Moderate Income Percentage</b>
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

A concession or incentive is defined as:

1. A reduction in site development standards or a modification of zoning requirements or architectural design requirements that exceed the minimum State building standards, such as reductions in setback,

square footage, or vehicular and bicycle parking space requirements. The requested concession or incentive must result in an identifiable and actual cost reduction to provide for affordable housing costs or rents.

2. Approval of mixed-use zoning for housing projects if associated commercial, office, industrial, or other land uses will reduce the cost of the housing project, and existing or planned development in the immediate area.
3. Other regulatory incentives or concessions that result in identifiable and actual cost reductions to provide for affordable housing costs, which may include the provision of direct financial incentives or land for the housing development by the City.

Concessions and incentives are differentiated from waivers and reductions in the SDBL. Projects that are eligible for a density bonus, and that are approved for concessions or incentives, cannot be subjected to any development standard that will have the effect of physically precluding the construction of the project. If a local development standard is found to have this effect, applicants have the option of requesting a waiver or reduction of any development standard that may preclude completion of the project; there is no limit on the number of waivers that may be requested. Waivers or reductions do not take the place of concessions or incentives that the project is qualified to receive.

In addition to waivers or reductions, upon request from the developer, the City may not require more than the following parking ratios for a density bonus project:

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

State Density Bonus Law requires local governments to grant an 80% density bonus on housing projects in which all the units (other than manager's units) are restricted to very low-, low-, and moderate-income residents, with a maximum of 20% restricted to moderate income units.

Additional information about Density Bonus Law is described in the Discussion Section of Planning Commission Staff Report #21-956.

### **Requested Density**

- B) The applicant has requested an 80% increase in the density allowed on the project site. The General Plan designation of High-Medium Density (HMD) Residential allows 12-24 units per acre. Based on this designation, the 1.54-acre site would be allowed a maximum of 37 units. Density Bonus law allows the requested density to exceed the density allowed by the General Plan and Zoning designations. The applicant is requesting a total of 66 units (65 permanent supportive housing affordable units and 1 onsite manager unit), which is an 80% increase over the allowed number of units. Because all the units, except the manager's unit, will be income-restricted to tenants whose income does not exceed 30% of the Area Median Income, the project is eligible for an 80% increase in the number of units allowed. Thus, the proposed 66 units are in compliance with the Density Bonus laws.

### **Zoning Ordinance Findings**

- C) Merced Municipal Code Section 20.56.080 (C) establishes specific findings that must be made to approve a Density Bonus. These findings are as following:
1. *The findings included in Section 20.56.030 (land Donation) if the density bonus is based all or in part on donation of land.*  
This finding does not apply as the project does not include land donation.
  2. *The findings included in Section 20.56.040 (Child Care Facilities) if the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility.*  
This finding does not apply as the project does not include a child care facility.
  3. *The findings included in Section 20.56.070 (Modifying Development Standards) if the incentive or concession includes mixed use development.*  
This finding does not apply as the project does not include a mixed use development.
  4. *If a waiver or modification is requested, the developer has to prove by submitting substantial evidence that the waiver or modification is necessary to make the housing units economically feasible.*

The requested concession, incentive, waiver or modifications are outlined below along with the applicant's justification as to why the request is needed. Documentation provided by the applicant, including the justification for each request and a pro-forma is provided at Attachment E of Planning Commission Staff Report #21-956.

### **Concessions and Waivers**

#### **D) Parking (Concession)**

The applicant has requested a reduction in the number of parking spaces from 107 spaces to 30 spaces. State Density Bonus Law (SDBL) allows a decrease in the parking ration required for each unit. The 65 proposed affordable permanent supportive housing units are all one-bedroom units. Therefore, according to SDBL, one parking space shall be provided for each unit. The manager's unit is a two-bedroom unit, which requires 1.5 spaces. Therefore, the total required parking under the density bonus requirements is 66.5 spaces.

Under the City's Zoning Ordinance requirements, the project would be required to provide 107 parking spaces. The project is proposing 30 parking spaces (refer to the Site Plan at Attachment D).

#### *Justification:*

The reduction in parking decreases the amount of paving required of the site, which decreases the overall cost of the project. Additionally, decreasing parking also enables greater utilization of the land for housing, which further decreases project costs.

#### **Height (Waiver)**

The applicant is requesting an increase in height from a maximum of 35' to a maximum of 45'. This increase allows the construction of three-story buildings rather than two-story buildings. The site is zoned Planned Development (P-D) #4 and has a General Plan designation of High-Medium Density (HMD) Residential. There are no specific standards for P-D #4, therefore, the City relies on the zoning category that corresponds with the General Plan designation. In this case, the R-3 zoning district corresponds with the General Plan designation of HMD. The maximum height allowed in the R-3 zoning district is 35'. Therefore, in order to construct a three-story building, an increase in the allowable height is required.

*Justification:*

Increasing the height of the buildings allows for greater efficiencies by enabling a greater building mass. This enables greater densities which reduces the cost of land per unit.

Setbacks (Waiver)

As explained above, staff is relying on the standards for the R-3 zoning district. This district requires a minimum 15' exterior yard setback. Additionally, Zoning Ordinance Section 20.46.040 (A)(1) requires a 1:1 height and setback ratio from an exterior property line for at least 50% of the building frontage. Based on the proposed 45' height of the buildings, the 1:1 ratio would require a portion of the building to be setback 45' from the property line.

*Justification:*

Decreasing setbacks allows for a greater building envelope which increases the efficiency of the development and decreases project costs per unit. Given the limitations of the lot size and shape, the required 1:1 height and setback ratio is not feasible and would render the development infeasible.

Lot Area Per Unit (Waiver)

As previously described, staff is relying on the standards for the R-3 zoning district. This standard allows one unit for every 1,500 square feet of lot area. The development proposes one unit for every 1,260 square feet of lot area.

*Justification:*

Decreasing lot area per dwelling unit allows for a greater building envelope which increases the efficiency of the development and decreases project costs per unit.

Roof-mounted Mechanical Equipment (Concession)

The applicant is requesting a waiver from Zoning Ordinance Section 20.46.040 (A)(5a) which prohibits roof-mounted mechanical equipment.

*Justification:*

Allowing roof-mounted mechanical equipment screened from public view allows more space on the ground for this small parcel. Placing

mechanical equipment on the ground takes up space that could be otherwise used for open space or general outdoor area. Additionally, the cost of a roof-mounted HVAC unit is typically less because the entire unit is on the roof. Ground-mounted units require a portion of the unit to be inside the living area. This not only takes up space, but adds cost to the apartment unit.

Safety and Defensible Space (Concession)

The applicant is requesting a waiver from Zoning Ordinance Section 20.46.030 (H)(2) which requires the number of apartments that enter their front door from the same hallway or courtyard be limited to 12 (or as otherwise approved by City staff) so that residents can learn to distinguish fellow neighbors from visitors and/or intruders.

*Justification:*

Given the limitations of the site, the building has been designed to maximize the limited space. The proposed design provides for all 66 units to be within the same three-story building. Limiting the number of units allowed to share an entrance to the building would limit the design, which in turn, would increase costs, and would limit the total number of units that could be built on the site.

Private Outdoor Space (Waiver)

Zoning Ordinance Section 20.46.030 (I) requires each unit to be provided with a minimum private outdoor area of 5' x 8' (40 sq. ft.). The applicant is requesting a waiver or reduction in this requirement.

*Justification:*

Due to the limited size of the site and the number of affordable units being provided, adding 40 square feet of outdoor private space would reduce the number of units that would be able to be constructed due to the added area needed to accommodate the outdoor space. Additionally, substantial costs are attached to providing balconies and private patios. These costs would either lead to a reduction in the number of units or render the project infeasible.

As described above, the applicant is requesting three concessions and four waivers. Based on the affordability of the project, it is eligible for four concessions. There is no limit to the waivers requested. Without the requested concessions, the project would not be feasible to build. The requested concessions would not result in any of the conditions listed in

EXHIBIT A

Finding A of this resolution that would result in the denial of the requested concessions. Therefore, the concessions comply with State Density Bonus Law. Because the project is eligible for the requested concessions, the City may not apply any development standards that would place a financial burden on the project and preclude the construction of the project. Therefore, the requested waivers also comply with state law.

### **Environmental Clearance**

- E) The adoption of the resolution is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15194 (Affordable Housing Exemption), 15332 (In-fill Development Projects), and 15162 (Subsequent EIRS and Negative Declarations), because it can be seen with certainty that the adoption of the resolution will not have a significant effect on the environment and none of the circumstances in CEQA Guidelines Section 15300.2 applies.